THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.17159 of 1999

ORAL ORDER:

This writ petition is filed seeking a Certiorari to call for the records relating to award made in I.D.No.150 of 1992 dated 5.5.1993 on the file of the first respondent-Labour Court.

Petitioner is workman and second respondent is management. It appears, petitioner was conductor in the respondent-Corporation. On 17.3.1986, while he was conducting the Bus bearing No.AAZ-8312 on route Hyderabad to Telugupalli, a check was exercised by the checking officials at Mall. According to the petitioner, though there were no irregularities committed by him, the checking officials have framed false case and issued a charge memo. Subsequently, basing upon the said charge memo, charge sheet dated 14.4.1986 was issued to him framing the following charges:

1. For having failed to observe the rule 'issue and start the bus' while performing duty in Bus No.AAZ-8312 on 17.3.1986 for hire special trip. This constitutes your misconduct under Regulation 28(xxxii) of APSRTC Employees (Conduct) Regulations, 1963.
2. For having failed to collect the fare and issue tickets to 6 adults and 10 chargeable children while conducting the Bus No.AAZ-8312 as special hire trip from Hyderabad/Telugupally when there were more than the number of seating capacity passengers, checked by the TTIs of Headquarters special checking squad of Suryapet at Mall point. This constitutes your misconduct under Regulation 28(xxxii) of APSRTC Employees (Conduct) Regulations, 1963.
3. For having failed to close the tray numbers of all denominations in SR.No.14/62545 from CBS to point of check i.e. Mall. This constitutes your misconduct under Regulation 28(xxxii) of APSRTC Employees

(Conduct) Regulations, 1963."

Petitioner submitted explanation to the said charge sheet. Having not satisfied with the same, an enquiry officer was appointed and after conducting a detailed enquiry into the matter, petitioner was removed from service. Aggrieved by the same, petitioner raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 before Labour Court-III, Hyderabad. It was the case of the petitioner before the Labour Court that neither the enquiry was properly conducted nor there was any evidence to found him guilty of the charges. The findings recorded by the enquiry officer as well as disciplinary authority are contrary to the evidence on record. Assuming that there is some misconduct on his part, the punishment of removal from service is shockingly disproportionate to that of the misconduct alleged. The respondent-Corporation filed a detailed counter denying the allegations made by the petitioner and asserting that the enquiry was properly conducted and the charges were proved in full and the charges being grave in nature, there was no other option except to impose punishment of removal from service. Before the Labour Court, neither oral nor any documentary evidence was adduced on behalf of petitioner. On behalf of management, Exs.M1 to M18 were marked. On the basis of material available on record, the Labour Court came to the conclusion that the charges were proved. It was held that as observed by the Enquiry Officer, the rule 'issue and start' strictly canot be applied for specially hired buses and the reasoning given by the Management in holding that the petitioner is guilty for charge No.1 is not convincing to reason. Petitioner failed to discharge his duties as per Rules, in collecting the fare amount from 6 adults and 10 children without noting down the tray numbers of the

tickets. However, while invoking Section 11-A of the Act, the Labour Court passed an award directing reinstatement of petitioner with continuity of service. However, it was made clear that the petitioner is not entitled for any attendant benefits and backwages. Aggrieved by the same, the present writ petition is filed.

It appears, in the explanation filed by the petitioner to the charge memo and charge sheet, it was stated that on the way, some of the persons belonging to the marriage party, who were traveling by van, boarded in the bus since the van failed on the way, and when he demanded fare from them, the said persons declined to pay on the ground of payment of advance hire and as such, he made a remark in the S.R. so as to deduct the fare amount of the 16 passengers from the deposit of the hirer while settling his account. However, the Enquiry Officer did not accept the explanation of the petitioner and found that charge Nos.2 and 3 were proved. Be that as it may, the Labour Court while holding that the charges were proved, directed reinstatement of the petitioner with continuity of service, but without any attendant benefits and backwages. This is a case where petitioner allowed the passengers, who belong to the marriage party8 when the van in which they were traveling failed. The said passengers refused to take tickets stating that they also belong to the marriage party and if necessary, the fare amount can be deducted from the deposit amount. Therefore, petitioner cannot be totally blamed for such incidents. Such incidents are not unusual. The marriage party passengers, who paid the money in advance, would assert the same. Therefore, in the peculiar facts and circumstances, and to meet the ends of justice, the award passed by the Labour Court is liable to be modified to the following effect.

> "In the result, the petitioner-workman is entitled for reinstatement with continuity of service and attendant benefits, but without any backwages. Further, the

attendant benefits shall be given effect to notionally and the benefits shall be given from the date of this order".

With the above modification, the writ petition is disposed of. No order as to costs.

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C.V.RAMULU,
J

Date: 19.12.2007
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W.P.No.17159 of 1999

19.12.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.17159 of 1999

Date: 19th December, 2007

Between:

Md.Nasarath Ali

.. Petitioner

And

The Labour Court-III, Hyderabad,
represented by its Presiding Officer,
Hyderabad & another.

.. Respondents